



North Carolina Department of Health and Human Services
Division of Mental Health, Developmental Disabilities and Substance Abuse Services
3001 Mail Service Center • Raleigh, North Carolina 27699-3001
Tel 919-733-7011 • Fax 919-733-1221

Michael F. Easley, Governor
Carmen Hooker Odom, Secretary

Richard J. Visingardi, Ph.D., Director

October 6, 2003

MEMORANDUM

TO: Area Directors
Area Board Chairs
County Managers

FROM: Richard J. Visingardi, Ph.D.

RE: Appointment of County Commissioners or Their Designated Alternatives to Area Authority Boards

In working with several counties and area programs around the issue of merger and consolidation, a question was asked regarding the appointment of county commissioners to area authority boards. The question, as posed to the Office of the Attorney General, and the Division's response, based on consultation with, and review by, the Office of the Attorney General is attached.

This is being shared with you as the first of many system reform related Questions and Answers (Q&A) which will be distributed during the coming days, weeks, and months. In addition to mailings, the Division will be establishing a Q&A document on its public web page to keep a running list of Q&As, with any relevant changes. As soon as this process has been finalized, we will advise all of you.

Should you have any questions about this communication and/or the attachment, please e-mail or call Phillip Hoffman at Phillip.Hoffman@ncmail.net or 919-715-7774. This communication, for now, is being posted on the Division's public web page under "Announcements".

RJV/pdh

Attachment

cc: Secretary Carmen Hooker Odom
Lanier Cansler
Jim Bernstein
Rob Lamme
DMHDDSAS Executive Leadership Team
Carol Duncan Clayton
Robin Huffman
Fred Waddle

Vance Holloman
Patrice Roesler
Richard Slipsky
Satana DeBerry



Question About Appointment of County Commissioners to Area Boards

Response Prepared October 6, 2003 by Phillip Hoffman, DMHDDSAS, with consultation from the Office of the Attorney General

Distributed via attachment to memorandum from Dr. R.J. Visingardi dated October 6, 2003, to Area Directors, Area Board Chairs and County Managers

Question: There was a question raised related to G.S. 122C-118.1(a) and the appointment of Board members. The question is - can the boards of county commissioners, by concurrent resolutions, allow for the appointment of someone other than a county commissioner to serve on the area board as the commissioners' appointee and then have that appointee act in that capacity to appoint other Board members? For example, if all the boards of commissioners comprising an area authority adopted resolutions to allow for the appointment of a county manager in lieu of a commissioner, would this be acceptable? In an 8 county catchment area you may end up with, for example, 3 county managers and 5 county commissioners making up the initial 8 appointments (or some other combination thereof). While "county managers" has been used as an example of a potential substitute, would a logical extension also allow for the appointment of DSS directors, consumers, etc., so long as all the boards of commissioners adopted the same requisite resolutions?

DMHDDSAS response after consultation with the Office of the Attorney General:

G.S. 118.1 is not a model of clarity. However, the best interpretation is that, if all the counties pass the same resolution allowing non-commissioners to take the place of what would have been the appointing commissioners, then that would comply with the statute; and, we believe that unlike the individuals identified in G.S. 118.1(b), county commissioners are not mandatory members of AP Boards.